

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION

BOBBIE J. HINES,

PLAINTIFF

v.

Case No. 1:05-cv-1051

MICHAEL J. ASTRUE,¹
Commissioner, Social Security Administration

DEFENDANT

JUDGMENT

Bobbie J. Hines (“Plaintiff”), appealed the Commissioner’s denial of benefits to this court. (Doc. No. 1)². On July 25, 2006, the Honorable Bobby E. Shepherd, United States Magistrate Judge for the Western District of Arkansas, remanded Plaintiff’s case to the Commissioner pursuant to sentence six of 42 U.S.C. § 405(g) for further proceedings. (Doc. No. 11). On February 23, 2007, the ALJ issued a favorable decision finding Plaintiff entitled to benefits. (Doc. No. 12-2). Plaintiff now moves for the entry of a final judgment by this court so that Plaintiff can proceed with an Application and Affidavit for attorney’s fees pursuant to 28 U.S.C. §2412 of the Equal Access to Justice Act. (Doc. No. 12). The Defendant has not responded to the Motion for Judgment.

When the Court remands a case pursuant to sentence six and retains jurisdiction pending completion of the administrative proceedings, entry of a final judgment is delayed until after the post-remand agency proceedings have been completed and the agency’s results have been filed with

¹ Michael J. Astrue became the Social Security Commissioner on February 12, 2007. Pursuant to Rule 25(d)(1) of the Federal Rules of Civil Procedure, Michael J. Astrue has been substituted for acting Commissioner Jo Anne B. Barnhart as the defendant in this suit.

² The docket numbers for this case are referenced by the designation “Doc. No.”

the court. *See Shalala v. Schaefer*, 509 U.S. 292, 296, 113 S.Ct. 2625 (1993). As all proceedings on remand have been completed and an administrative decision favorable to Plaintiff has been issued, Plaintiff is entitled to the entry of judgment in his favor.

Accordingly, I hereby affirm the favorable decision of the Commissioner and dismiss Plaintiff's complaint.

If Plaintiff wishes to request an award of attorney's fees and cost under the Equal Access to Justice Act, 28 U.S.C. § 2412, an application may be filed up until 30 days after the judgment becomes "not appealable," i.e., 30 days after the 60-day time for appeal has ended. *See Shalala v. Schaefer*, 509 U.S. 292 at 296; 28 U.S.C. §§ 2412(d)(1)(B),(d)(2)(G).

IT IS SO ORDERED this 6th day of July, 2007.

/s/ Barry A. Bryant
HON. BARRY A. BRYANT
U.S. MAGISTRATE JUDGE